



\$~42

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Date of decision: 26.05.2022

+ W.P.(C) 8438/2022

GORAKH SINGH

..... Petitioner

Through: Mr.Nikhil Bhardwaj, Advocate.

Versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr.Gurdeep Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (oral)

CM APPL. 25416/2022 (exemption)

1. Allowed, subject to just exceptions.
2. The application is accordingly disposed of.

W.P.(C) 8438/2022

3. By way of present petition, petitioner prays as under:
 - a. *To direct the respondents for grant of HRA to the petitioner w.e.f. 28.09.2016 till 30.09.2020 (excluding the period of 27.03.2017 to 03.05.2017) at the rates of respective place of posting applicable to*



commandant level officers, alongwith interest @ 12 % PA;

- b. To direct respondents for grant of HRA to the Petitioner w.e.f 28.09.2016 till 30.09.2020 (excluding the period of 27.03.2017 to 03.05.2017) at the rates of respective place of posting applicable to Personnel below Officers Ranks alongwith interest @ 12 % PA;*
- c. To quash the impugned order dated 02.01.2021 to the effect it rejects prayer of petitioner for grant of HRA at the rates of respective place of posting applicable to the commandant level officers.*

4. Pertinently, in earlier round of litigation, petitioner filed a petition bearing no. W.P.(C) 8172/2020 seeking directions to the respondents to grant HRA to the petitioner w.e.f. 28.09.2016 (excluding the period of 27.03.2017 to 03.05.2017) along with interest @ 12% p.a., however, the same was dismissed as withdrawn vide order dated 19.10.2020 on the statement of learned counsel for the petitioner and the relevant paras of the said order are as under:

“5. At this stage, the counsel for the petitioner seeks to withdraw the petition with liberty to again represent to the respondents CISF for grant of HRA and states that if the petitioner does not succeed in his representation and / or his representation is rejected, the petitioner will not avail of any legal remedy before any forum, qua HRA.



6. *Though as aforesaid, we have fully heard the counsel for the petitioner but on the condition that the petitioner, if remains aggrieved, either from the decision on his representation or from no decision being taken on the representation which he intends to make, shall not avail any legal remedies, we allow the petitioner to withdraw the petition at this stage, only to make a representation to the respondents CISF for the same relief but again clarifying that the petitioner shall have no further redressal avenues available.*

7. *The petition is dismissed as withdrawn with liberty aforesaid.”*

5. Consequently, the petitioner made representation and same has been rejected by stating that petitioner is not entitled.

6. Despite the aforesaid undertaking of the learned counsel for the petitioner, present petition has been filed.

7. At this stage, counsel for the petitioner submits that though the petitioner retired from the respondents department on 30.09.2020 on attaining the age of superannuation but as vide order dated 10.02.2021, the respondents themselves have started granting HRA to commandant level officers of CRPFs, therefore, the petitioner is entitled qua the said order for grant of HRA.



8. Learned counsel appearing on behalf of the respondents submits that though the petitioner had retired on 30.09.2020 whereas order dated 10.02.2021 is prospective in nature and applicable on the surviving officers as on that date.

9. This Court put a specific query to the counsel for the petitioner whether the HRA sought is for the period other than the period from 28.09.2016 till 30.09.2020 (excluding the period of 27.03.2017 to 03.05.2017) along with interest @ 12% p.a. In response, he admitted said fact. However, the said issue has already been disposed of vide order dated 19.10.2020 in the W.P.(C) 8172/2020. Moreover, the order dated 10.02.2021 is applicable on the surviving officers as on that date, whereas, the petitioner had retired on 30.09.2020.

10. In view of above, no fresh cause of action arises in favour of the petitioner, the petition is dismissed accordingly.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

MAY 26, 2022/ab